

REMARKS

Applicants have amended claim 1 for clarification purposes. Applicants submit that amended claim 1 is supported by the specification including page 11, lines 1-5.

On page 2 of the Office Action, claim 7 was rejected under 35 U.S.C. 112, first paragraph, on the grounds that "the structural unit (B2) under B) is selected from the group consisting of vinyl ethers, alkylacrylates, or alkylmethacrylates" is considered as new matter. Applicants respectfully disagree. Applicants submit that there is literal support on page 9, lines 14-21 of the specification. Specifically, the specification states that "further comonomers include, but are not limited to, vinyl esters, vinyl ethers, alkyl acrylates, alkyl methacrylates or higher olefins having at least 5 carbon atoms." Applicants are entitled to claim a Markush group in a dependent claim for which there is literal support in the specification for the members of the Markush group. Therefore, Applicants submit that there is no new matter. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

On page 2 of the Office Action, claims 1-17 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite on the grounds that claim 1 (and its dependent claims) is indefinite and confusing because the phrase "consist essentially of a) and b)" of line 3 of part B) is in conflict with the phrase "the copolymers comprise up to 4%...." It was further argued that the intended scope of the claim is unclear. Applicants submit that the present rejection is moot in view of amended claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

On page 3 of the Office Action, claims 1-15 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsubishi Petrochemical Co. Ltd. EP 217,602 in view of Reimann U.S.

Patent No. 5,254,652 and Brown et al, WO 95/23,200. Applicants disagree with the Examiner's position with respect to Brown. Applicants again submit that Brown teaches away from the present invention. Applicants further submit that amended claim 1 excludes the comb polymers of Brown and that the obviousness rejection must fail. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection.

In view of the foregoing, it is respectfully urged that the present claims are in condition for allowance and reconsideration is requested. An early notice to this effect is earnestly solicited. Should there be any questions regarding this application, the Examiner is invited to contact the undersigned at the number shown below.

Respectfully submitted,



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Enclosures:
Version with markings to show changes made

VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Twice Amended) A fuel oil middle distillate composition comprising:

A) a mineral oil having a cloud point of less than -8°C, a boiling range (90-20%) of less than 120°C, a 95% distillation point of less than 350°C and a difference between CFPP and PP of less than 10°C, and

B) a flow improver consisting essentially of:

1) one or more copolymers present in an amount of 0.001 to 2% by weight, based on the weight of the oil, wherein the copolymers have melt viscosities of from 20 to 10,000 mPas at 140°C and wherein the copolymers consist essentially of a) and b):

b) bivalent structural unit (B1) present in an amount of from 85 to 97 mol%, wherein (B1) is a bivalent structural unit of formula (1)



and

b) one or more bivalent structural units (B2) present in an amount of from 3 to 15 mol% [of],

wherein

(B2) is either a bivalent structural unit of formula (2):



in which

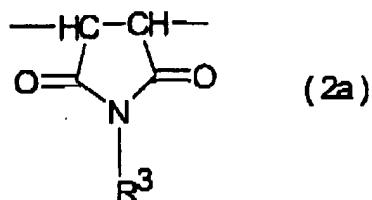
R¹ is hydrogen or methyl,

R² is COOR³, OR³ or OCOR³, and

R³ is an alkyl radical having at least 4 and at most 30 carbon atoms,

or

(B2) is a bivalent structural unit of formula (2a)



in which

R^3 is an alkyl radical having at least 4 and at most 30 carbon atoms,

wherein the copolymers [comprise] optionally consist essentially of up to 4% by weight of vinyl acetate or up to 5% by weight of further comonomers except vinyl acetate; and

2) optionally an oil soluble co-additive selected from the group consisting of paraffin dispersants and vinyl-acetate containing copolymers or terpolymers of ethylene.